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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil Gas and Mining

JOHN R. BAZA
Division Director

July 22, 2008

CERTIFIED RETURN RECEIPT

7005 2570 0000 4801 7314

Mr. Justin Farley
United Stone and Design
P. O. Box 909
Duchesne, Utah 84021

Subject: Proposed Assessment for Cessation Order #MC-2008-59-01, United Stone and Design, Alumin King Mine, S/047/079, Uintah County, Utah

Dear Mr. Farley:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. The cessation order was issued by Division Inspector, Leslie Heppler, on June 16, 2008. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violation as follows:

- MC-2008-59-01 \$2,200

The enclosed worksheet specifically outlines how the violation was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Cessation Order has been considered in determining the facts surrounding the violation and the amount of penalty. If the violation has not been abated at the time of the proposed assessment, the assignment of good faith points cannot be made. If you feel that you are eligible for good faith, you should supply relevant information to the assessment officer within 15 days of the violation abatement date so that it can be factored into the final assessment. A reassessment will be completed and sent to you upon termination of the Cessation Order.



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Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or appointed Conference Officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final (after factoring in any good faith points upon termination), and the penalty(ies) will be due and payable within thirty (30) days of the final assessment. If you wish to appeal either the fact of the violation or the proposed penalty assessment, please provide a written request for such appeal to Vickie Southwick at the Division. Otherwise, please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Lynn Kunzler
Assessment Officer

LK/vs

Enclosure: Worksheet

cc: Vickie Southwick, Exec. Sec.
Vicki Bailey, Accounting

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2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

*** *An Operator is required to file a notice of intention to commence mining operations and provide a reclamation surety with the Division of Oil Gas and Mining prior to conducting mining operations. The operator was approved for a payment plan for his surety, and has defaulted on payments. Less than 1/2 the required surety has been provided. If the operator defaulted, The Division would not have sufficient funds to reclaim the entire site. Points assigned at low end of 'likely' since the operator has defaulted twice on his payment plan, it is considered likely he would default on his reclamation responsibility*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 13

PROVIDE AN EXPLANATION OF POINTS:

*** *The permit area has already been disturbed. The Division has less than 1/2 the surety needed to reclaim the site. With the surety, more than 1/2 of the area would potentially not be reclaimed. Since 'actual damage' has not occurred but the potential is considered likely, points were assigned at mid-point in the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? NA
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS N/A

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 23

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS:

******* *The inspector indicated that the operator has defaulted twice on his payment plan. After the first default, the operator met with DOGM and provided a second date by which he would have the surety posted. The Operator had stated his intent to provide surety, but has failed to do so. Mining has been occurring for at least the last two years. This indicates indifference to the rules or lack of reasonable care. A prudent operator would understand the need to provide adequate surety. No contact was made to the Division, to request additional time due to hardship. Points are assigned it midpoint of the upper half of the Negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- | | | |
|---|---|-------------|
| X | Rapid Compliance | -11 to -20* |
| | (Permittee used diligence to abate the violation) | |
| X | Normal Compliance | -1 to -10* |
| | (Operator complied within the abatement period required) | |
| X | Extended Compliance | 0 |
| | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) | |
| | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan) | |

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS --

PROVIDE AN EXPLANATION OF POINTS:

******* *The abatement for this violation has not been completed yet so good faith points cannot be assigned. The assignment of good faith can occur once the abatement requirements have been met and is contingent upon the Operator's diligence in achieving compliance. This area will be evaluated again upon termination of the Cessation Order.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-06-03-07-01</u>	
I.	TOTAL HISTORY POINTS <u>5</u>
II.	TOTAL SERIOUSNESS POINTS <u>23</u>
III.	TOTAL NEGLIGENCE POINTS <u>12</u>
IV.	TOTAL GOOD FAITH POINTS <u>0</u>
	TOTAL ASSESSED POINTS <u>40</u>
	TOTAL ASSESSED FINE <u>\$ 2,200</u>